

Subject: **INFORMATION:** Transportation Equity Act for
the 21st Century (TEA-21) - Scour Countermeasures
Funding

Date: October 22, 1998

From: Director, Office of Engineering

Reply to
Attn. of: HNG-33

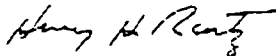
To: Division Administrators
Federal Lands Highway Program Administrator

Title 23, U.S.C. 144 was revised by TEA-21 to allow Federal participation in the installation of scour countermeasures on highway bridges. This work is now eligible for Highway Bridge Replacement and Rehabilitation funds and other Federal-aid funds. Countermeasures for scour and stream instability are defined as measures incorporated into a highway-stream crossing system to monitor, control, inhibit, change, delay, or minimize the associated problems. Countermeasures are organized into three main groups based on their functionality with respect to scour and stream instability: hydraulic countermeasures (i.e., riprap armoring), structural countermeasures (i.e., foundation underpinning), and monitoring (i.e., fixed instrumentation).

The installation of scour countermeasures may be undertaken as a sole work item or combined with other eligible work. Under TEA-21, however, for bridge program funds to be used for scour countermeasures the bridge must be on an eligibility selection list provided under 23 CFR 650.409(b). Previous guidance from the Office of Engineering, contained in the October 15, 1997, memorandum (copy attached) regarding the funding of scour countermeasure work with bridge program funds is superseded.

As a sole work item, installation of scour countermeasures is not considered reconstruction and is not subject to the 10-year rule. Therefore, Item 106 of the Coding Guide should not be updated for this type of work.

Questions concerning this policy should be directed to Mr. Steven Ernst at 202-366-4619.


Henry H. Rentz

Attachment

Federal Highway Administration
HNG-33:SERNST:ldw:64619:10-15-98
REVISED:HNG-30:DDENSMORE:ldw:64589:10-16-98
REVISED:HNG-1:MSTEWART:ldw:10-20-98
REVISED:HNG-1:HRENTZ:ldw:10-21-98
cc: D. Densmore HNG-30 J. Pagan HNG-30
S. Ernst HNG-33 Reader File HNG-30
B. Wood HNG-33 Chron File HNG-33
P. Thompson HNG-31 All Resource Centers

Memorandum

US Department of Transportation

Federal Highway Administration

Subject: **INFORMATION:** Test and Evaluation Project
for Pre-Emergency Scour Countermeasures

Date: October 15, 1997

From: Director, Office of Engineering

Reply to
Attn of: HNG-12

To: Ms. Julie A. Cirillo
Regional Administrator (HRA-09)
San Francisco, California

You have proposed waiving normal contracting requirements and using innovative contracting procedures to expedite the installation of countermeasures at scour critical sites in anticipation of the possible severe impacts from El Nino. We agree this approach has merit. The process established in 23 CFR 635.204(b), for use in emergencies, may be applied in this situation by the Division Administrator to approve alternative contracting arrangements for accomplishing the installation of scour countermeasures and scour monitoring devices. Additionally, several innovative contracting procedures are available for your use under Special Experimental Project Number 14. Should there be a need to use the design/build contracting method for these activities, please advise us, and we will take separate approval action for this method.

Regular apportioned Federal-aid highway funds, as appropriate, may be used for the installation of scour countermeasures and scour monitoring devices. While the use of bridge program (HBRRP) funds for this work on non-deficient bridges is a revised position by this office, it is in line with NEXTEA and the Senate's ISTEA II proposal. As a consideration for the use of these funds, it would be appropriate to obtain commitments from Region 9 States to complete scour evaluations consistent with my October 9, 1997, memorandum on that subject.

Executive Director Kane's recent memorandum to you has firmly established that emergency relief (ER) funds cannot be used to pay for these preventative activities prior to an actual disaster occurring. This prohibition on use of ER funds also extends to retroactively paying for the preventative activities, even if a disaster should occur. Our position is based on our longstanding interpretation of the ER statute and is not subject to modification unless Congress initiates a legislative change. Accordingly, the ER eligibility issue requires no further evaluation at this point in time.

Henry H. Rentz